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In re Application of : DECISION ON
Robert Isaac Berg :
Application No.: 10/595,421 :
PCT No.: PCT/US04/34353 :
Int. Filing Date: 18 October 2004 : PETITION UNDER
Priority Date: 16 October 2003 :
Attorney's Docket No.: 2227.104.NP00 :
For: MIRRORED ORAL-PRODUCT CONTAINER : 37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 29 January 2007.

BACKGROUND

On 18 October 2004, this international application was filed, claiming an earliest priority date of 16 October 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 16 April 2006. This international application became abandoned with respect to the United States at midnight on 16 April 2006 for failure to pay the required basic national fee.

On 17 April 2006 (April 16th was a Sunday), applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371. However, the national basic fee and executed declaration were not provided at such time.

On 09 November 2006, the United States Patent and Trademark Office mailed a NOTICE OF INSUFFICIENT BASIC NATIONAL FEE REQUIRED AND/OR MISSING COPY OF INTERNATIONAL APPLICATION UNDER 35 USC 371 AND 37CFR 1.495.

On 29 January 2007, applicants filed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee and the basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.



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